

REMARKS

Claims 3, 5, and 6 are amended as described below in the Discussion, and also for the sake of correct claim dependency (thus, claims 5 and 6 have been amended to depend from claim 3 and not from canceled claim 1).

These amendments are supported by the application as filed and no new matter has been added by any of the amendments.

Claims 3-6 are now present in this application.

Reconsideration of this application, in view of these amendments and remarks, is respectfully requested.

Discussion

I. Objection to the Specification

The Examiner objected to the specification for failing to provide proper antecedent basis for the claimed subject matter, specifically the subject matter of claim 6.

The applicants respectfully traverse this rejection for the reasons given below.

Claim 6, as amended, is directed to:

The pillow of claim 3, further comprising: an insert received at the intersection of the seams to support the head of the user.

The Examiner's attention is invited to Figures 10(a)-10(d) in the drawings and the associated specification at paragraph [0090] of the published version of the instant application. The "small pillow 38" of this embodiment corresponds to the claimed "insert."

It is believed that the objection to the specification should be withdrawn.

II. Rejections under 35 U.S.C. § 102(b) over Tobias

Claims 3-6 are rejected under 35 U.S.C. § 102(b) over U.S. Patent 2, 577,595 to Tobias. ("Tobias"). The applicants respectfully traverse this rejection for the reasons given below.

Claim 3, the sole independent claim currently in this application, recites (as amended):

A pillow, comprising:

two side panels removably attached to each other along a generally straight first seam to receive the head of a user therein;

a bottom panel for supporting the neck of the user and removably attached to the side panels along a second seam that is substantially perpendicular to the first seam; and

at least two cooperating adjustable fasteners attached to an exterior of at least one of the side panels and the bottom panel, wherein the two cooperating adjustable fasteners engage one another for adjusting the at least one of the side panels and the bottom panel.

Tobias does not teach or suggest "at least two cooperating adjustable fasteners attached to an exterior of one of the side panels and the bottom panel, wherein the two cooperating adjustable fasteners engage one another for adjusting the one of the side panels and the bottom panel." The Examiner referred to tie-tapes 61 in connection with the adjustable fasteners of claim 6. Column 4, lines 28-33 and Figures 15-18 of Tobias describe how the tie-tapes 61 of Tobias hold the overlapping flap 60 in place. The overlapping flap 60 is part of the closure for the side opening of a pillow case designed as a "compartmented envelope" to admit a one-piece articulated pillow. The Examiner argued in connection with the rejection of claim 6 that the tie tapes 61 "can inherently be

used to change the contour and shape of the pillow." The applicants disagree because the tie tapes 61 are very short and therefore cannot inherently adjust anything. Also, the tie tapes 61 can only secure the overlapping flap 60 of what is an external pillow case and inherently cannot adjust the height, for example, of one of the panels of the articulated pillow contained therein.

Claim 3, as amended, requires that It is also respectfully submitted that Tobias does not teach or disclose "at least two cooperating adjustable fasteners attached to an exterior of one of the side panels and the bottom panel" as recited in claim 3, at least because the tie tapes 61 are located at the opening of a single pillow case that covers the three portions of the one-piece articulated pillow that fits inside the pillow case. The tie tapes 61 are not attached to an "exterior of one of the side panels and the bottom panel."

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. 2131 (quoting *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). The applicants respectfully submit that Tobias does not teach or suggest each and every element recited in claim 3. For the at least the reasons given, claim 3 is not anticipated by Tobias and the 35 U.S.C. § 102(b) rejection of claim 3 should be withdrawn.

Dependent Claims

The remaining claims (claims 4-6) depend from the independent claim discussed above and are allowable for at least that reason and due to the additional limitations added by the dependent claims. The 35 U.S.C. § 102(b) rejections of these claims should be withdrawn.


Conclusion

In view of the above, the applicants submit that the application is now in condition for allowance and respectfully urges the Examiner to pass this case to issue. The Examiner is respectfully invited to telephone the undersigned attorney as needed in order to advance the examination of this application.

* * *

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 12-0415. In particular, if this response is not timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 C.F.R. 1.136 (a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 12-0415.


I hereby certify that this correspondence is being deposited with the United States Post Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 25, 2007.



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May 25, 2007
(Date)

Respectfully submitted,



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